

REMARKS

Rejections under 35 U.S.C. § 103

Rejection over Wheless in view of Brown

Claims 31-36 and 42 were rejected under 35 U.S.C. § 103(a) over Wheless (U.S. Pat. No. 2,123,580) in view of Brown (U.S. Pat. No. 237,161). The Office Action asserts that Wheless discloses a cutting apparatus having all the elements recited in the claims, including a second surface larger than a first planar surface. The Office Action admits that Wheless does not disclose a cutting apparatus having a second planar surface, but contends that it would have been obvious to combine the cutting apparatus of Wheless with a second planar surface disclosed in Brown.

The rejection of claims 31-36 and 42 under 35 U.S.C. § 103(a) over Wheless and Brown is respectfully traversed. The applied references, alone or in combination, fails to provide each and every element of the pending claims. Specifically, the references do not teach or suggest

... a concave surface between the planar surfaces, wherein
the concave surface forms a closed end; ...

as recited in independent claim 31. Applicants point out that the claims do not recite a simple collection of planar surfaces and other shapes, but rather recite clearly defined relationships between the elements so as to provide a claimed structure. Thus, the first and second planar surfaces are not recited independently but are recited in combination with a concave surface such that the planar surfaces and the concave surface form a pocket as claimed. Hence, the combined references do not teach or suggest, nor has the Examiner asserted that the combined references teach or suggest, first and second planar surfaces in combination with a concave surface such that the surfaces form a pocket having an open end and a closed end.

With respect to the Brown reference, Applicants respectfully point out that the Office Action's characterization of Brown is not consistent with the disclosure of the reference. The Examiner has not yet specified which element in Fig. 2 of Brown correlates with a second planar surface as recited in the claims. The only possibly planar surfaces apparent from Figures 1 and 2 of Brown are "the bent levers, P",

which function as spring clamps [p.1, right column, lines 56-57 and 68]. Applicants note that drawing element K is described as a cylindrical roller, and thus cannot be a planar surface [p.1, left column, lines 43-45]. Clearly, Brown cannot provide a second planar surface larger than a first planar surface if the reference provides only one element that possibly could be planar. Moreover, the spring clamps P of Brown do not coordinate with any other elements, planar or otherwise, to provide a pocket having a concave surface forming a closed end. Rather, the spring clamps are positioned between the rollers K to clamp a substrate in a scissors-style manner [Figure 1; p. 1, right column, lines 56-62 and 67-70].

The combination of Brown and Wheless, even if proper, would fail to teach or suggest the pocket as claimed. If the spring clamps P of Brown are combined with the apparatus of Wheless, this would only serve to duplicate the function of the swing arms 20 of Wheless, which press the substrate into the apparatus [Figs 2-4; p. 1, right column, lines 21-32]. Thus the applied references, alone or in combination, fail to recite each and every element of claims 31-36 and 42, and the references cannot support a *prima facie* case of obviousness.

In addition, the Office Action does not provide a proper motivation or suggestion to combine the references. The only motivation presented in the Office Action to combine the apparatus of Wheless and the elements disclosed in Brown is that such a combination would create a "more efficient holding pocket." The assertion of increased efficiency without any reasoning on the record amounts to a simple conclusory statement and is not a genuine motivation to combine these references. This assertion is not supported by any disclosure in the references, and appears to be based on the personal knowledge of the Examiner. Applicants hereby traverse this use of the Examiner's personal knowledge, as it is not common knowledge that the addition of spring clamps, or of any other component disclosed in Brown, to an apparatus that already contains a clamping mechanism could possibly increase efficiency. As noted above, the combination of the references does not appear to provide an apparatus that is substantially different from that disclosed in Wheless. Accordingly, applicants hereby request, under 37 CFR 1.104(d)(2), that the Examiner provide an affidavit in support of the assertions made based on the Examiner's personal knowledge (MPEP 2144.03(C.)).

Wheless and Brown, alone or in combination, do not teach or suggest each and every element of claims 31-36 and 42. Moreover, until the Examiner provides appropriate affidavits or reference citations, there is no evidence on the record of any suggestion or motivation to combine the disclosures of Wheless and Brown. Accordingly, a *prima facie* case of obviousness over Wheless and Brown has not been presented, and Applicants respectfully request that the Examiner withdraw this rejection.

Rejection over Wheless in view of Brown and Lindenblatt et al.

Claim 37 was rejected under 35 U.S.C. § 103(a) over Wheless in view of Brown and further in view of Lindenblatt et al. (U.S. Patent No. 5,174,351). The Office Action asserts that it would be obvious to combine the cutting apparatus of Wheless in combination with Brown with the multiple circular saw blades disclosed in Lindenblatt et al.

The rejection of the claims under 35 U.S.C. § 103(a) over Wheless and Lindenblatt is respectfully traversed. The applied references, alone or in combination, fail to provide each and every element of the claims. Dependent claim 37 includes all of the elements of independent claim 31. As stated above, Wheless and Brown, alone or in combination, do not teach or suggest each and every element of claim 31, particularly with respect to the claimed configuration of the pocket. Lindenblatt et al. does not teach or suggest, nor does the Office Action assert that Lindenblatt et al. teaches or suggests, a pocket having the configuration recited in claim 31. Because the combination of Wheless, Brown and Lindenblatt et al. does not teach or suggest each and every element of dependent claim 37, a *prima facie* case of obviousness has not yet been presented, and Applicants respectfully request that the Examiner withdraw this rejection.

Rejection over Wheless in view of Brown (Claims 38-41 and 44)

Claims 38-41 were rejected under 35 U.S.C. § 103(a) over Wheless in view of Brown. The Office Action asserts that the combination of Wheless and Brown provides an apparatus as recited in independent claim 31, and that the dimensions of the pocket recited in these claims are an "obvious matter of design choice."

The rejection of the claims under 35 U.S.C. § 103(a) over Wheless and Brown is respectfully traversed, as the applied references fail to provide each and every element of the claims. Dependent claims 38-41 include all of the elements of independent claim 31. As stated above, Wheless and Brown, alone or in combination, do not teach or suggest each and every element of claim 31, particularly with respect to the claimed configuration of the pocket.

Independent claim 44 recites a pocket comprising a first and a second planar surface and comprising a base defining a horizontal axis, and further recites a specific orientation of the planar surfaces relative to the horizontal axis. The Office Action asserts that a base for a pocket is disclosed in Figure 4 of Wheless; however, there is no specific correlation of the base either to a drawing element or to any other portion of the description. This discrepancy between the disclosure of the reference and the assertions of the Examiner was pointed out in the previous Request For Reconsideration filed April 16, 2003 [Paper No. 17]. In the present Office Action, no additional evidence has been placed on the record to show that a pocket comprising a base defining a horizontal axis is actually disclosed by Wheless, nor has an assertion been made that the Brown reference discloses such a pocket. Accordingly, Wheless and Brown, alone or in combination, do not teach or suggest each and every element of claim 44.

Moreover, as further noted in the previously filed Request For Reconsideration, Applicants respectfully disagree with the characterization of the claimed dimensions as an "obvious matter of design choice." The dimensions of the planar surfaces, the concave surface, and the relative positions and orientations of the planar surfaces contribute to some of the unique properties of the apparatus and the pocket. A pocket having the claimed dimensions can help to maintain a log in the pocket during the cutting procedure without any external structures such as clamps or mandrels. The apparatus of Wheless and/or Brown, in contrast, must accommodate a variety of logs, since these references are directed to timber and kindling production rather than to flexible logs. Both of these references thus require an external clamp to ensure that logs having a range of dimensions can be cut. Thus, a mere change in the size of the components of Wheless and/or Brown would not provide an apparatus or a pocket as claimed.

The combination of Wheless and Brown does not teach or suggest each and every element of claims 38-41 and 44. Accordingly, a *prima facie* case of obviousness has not yet been presented, and Applicants respectfully request that the Examiner withdraw this rejection.

Rejection over Wheless in view of Lindenblatt et al.

Claim 47 was rejected under 35 U.S.C. § 103(a) over Wheless in view of Lindenblatt et al. (U.S. Patent No. 5,174,351). The Office Action asserts that it would be obvious to combine the cutting apparatus of Wheless with the multiple circular saw blades disclosed in Lindenblatt et al. The Office Action further asserts that drawing element 20 of Wheless is not an "external structure" but is part of the sprocket, which the Office Action has correlated with drawing element 10 of the reference. This assertion appears to be the basis for the Office Action's conclusion that Wheless discloses a pocket configured to maintain a work piece without the use of an external structure.

The rejection of claim 47 under 35 U.S.C. § 103(a) over Wheless and Lindenblatt et al. is respectfully traversed, as the applied references, alone or in combination, fail to provide each and every element of the claim. Specifically, the references do not teach or suggest an apparatus containing pockets that are "configured to maintain the rolls in the pockets without the use of an external structure to hold the rolls in the pockets," as recited in claim 47. Lindenblatt et al. does not teach or suggest, nor does the Office Action assert that Lindenblatt et al. teaches or suggests, a pocket as recited in claim 47. With respect to Wheless, Applicants have already pointed out the inconsistencies between the disclosure of Wheless and the Office Action's assertions regarding the disclosure of the reference, as set forth in the previously filed Request For Reconsideration [Paper No. 17]. The Examiner has not responded to the points raised in that response, so that discussion is reproduced below.

Wheless discloses "arms or latches 20" as "... pivoted adjacent each recess of a cradle..." (p.1, right col., lines 22-25; emphasis added) and notes that "... The arms can be pivoted on bolts 23 preferably at a point somewhat in advance, radially,

of the recess..." (p.1, right col., lines 36-38; emphasis added). The function of these arms is also described in Wheless:

As the recesses move upwardly, each arm, in succession, will swing by gravity to a position across the entrance of its recess and the weight of portion 21 is such as to hold the log firmly seated in the inner semicircular extremity of its recess.
[p.1, right col., lines 27-32; emphasis added]

Additional description of these arms and their function in the apparatus of Wheless is found at p.1, right col., lines 36-41; at p.2, left col., lines 59-67; and at p.2, right col., lines 54-62. These weighted arms are clearly separate from (i.e. external to) the recesses, which the Office Action has correlated with Applicants' pockets, as they are described as adjacent to and in advance of the recesses. These external arms function to maintain the logs in their recesses, which is specifically excluded from claim 47.

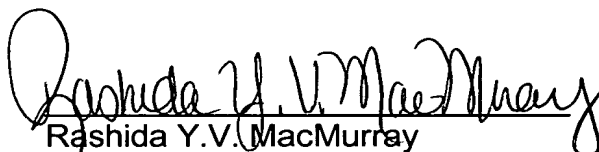
In contrast to this evidence from the disclosure of Wheless, the Office Action contains a simple conclusory statement that the "arms or latches 20" are "part of the sprocket" of the apparatus of Wheless. It is noted again that whether these arms are part of the sprocket is actually immaterial, as claim 47 does not recite a sprocket. Moreover, if this statement regarding the arms is an attempt to take Official Notice of facts or knowledge not on the record, Applicants hereby request, under 37 CFR 1.104(d)(2), that the Examiner provide an affidavit in support of the assertions made based on the Examiner's personal knowledge, and that such an affidavit should include a rebuttal of the analysis of the disclosure of Wheless set forth above (MPEP 2144.03(C.)).

The combination of Wheless and Lindenblatt et al. does not teach or suggest each and every element of claim 47. Accordingly, a *prima facie* case of obviousness has not yet been presented, and Applicants respectfully request that the Examiner withdraw this rejection.

CONCLUSION

In conclusion, all of the grounds raised in the outstanding Office Action for rejecting the application are believed to be overcome or rendered moot based on the remarks above. Thus, Applicants respectfully submit that all of the presently presented claims are in form for allowance, and such action is requested in due course. The Examiner is invited to contact the undersigned attorneys for the Applicants via telephone if such communication would expedite this application.

Respectfully submitted,


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